



DEPARTMENT OF PERSONNEL

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MEMO PERD #10/02

February 26, 2002

TO: Interested Parties
FROM: Jeanne Greene, Director
Department of Personnel
SUBJECT: PERSONNEL COMMISSION MEETING MINUTES

Attached are the minutes from the December 7, 2001, Personnel Commission meeting. These minutes have not been approved and are subject to revision at the next meeting of the Personnel Commission on March 22, 2002.

JG:cp

Attachment

**PERSONNEL COMMISSION
MEETING MINUTES OF
DECEMBER 7, 2001**

**MEMO PERD #10/02
February 26, 2002**

I. Call to Order

Chairman Manos called the meeting to order at 9:11 a.m., December 7, 2001, at the Grant Sawyer Building, Room 4412, 555 East Washington Avenue, Las Vegas, Nevada. Members present: Chairman Ted Manos, Commissioners Claudette Enus, Teo Gamboa, James Skaggs, and Victoria Riley via video conference link in Carson City. Also present were: Jeanne Greene and Carol Thomas from the Department of Personnel and Sr. Deputy Attorney General Jim Spencer.

II. *Adoption of Agenda

The agenda was approved by acclamation.

III. *Minutes of Previous Meeting

The minutes of the August 3, 2001, Personnel Commission meeting were approved by acclamation.

IV. *Classes Subject to Pre-Employment Screening for Controlled Substances

Department of Corrections - Program Officer I

Department of Human Resources - Pharmacist III

Commissioner Skaggs' motion to add specific Program Officer I positions in the Department of Corrections and all Pharmacist III positions in the Department of Human Resources to the list of classes requiring pre-employment screening for controlled substances was seconded by Commissioner Enus and unanimously approved.

V. *Approval of Proposed Class Specifications

A. Capitol Police Officer I

State Peace Officers Council

This item was discussed at the August 3, 2001, Personnel Commission meeting, but no action was taken because the vote to change the minimum qualifications from Category I to Category II Peace Officer Standards & Training (P.O.S.T.) was tied, two votes for and two votes against.

Colonel David Hosmer, Chief of the Nevada Highway Patrol, Department of Public Safety, requested the minimum qualifications be changed to align with NRS 289.470, which requires Capitol Police Officers to receive Category II training. If Capitol Police

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needed to be Category I Peace Officers, then the NRS needed to be changed through the Legislature. He clarified there was no intention to demote those peace officers currently at Category I, and the change would broaden the applicant pool.

Ron Cuzze, Vice President, Nevada Conference of Police and Sheriffs, and Business Agent, State Peace Officers Council, introduced Richard Tiran, Vice President, Nevada Conference Police and Sheriffs, and President, State Peace Officers Council; and Tony Gasparino, Vice President, State Peace Officers Council, and Sergeant, Capitol Police. Mr. Cuzze explained there should be only two types of law enforcement agents in the State of Nevada - law enforcement officer or corrections officer. Having different training levels would be a liability to the State because Capitol Police were uniformed, first responders who drove marked patrol cars, but Category II officers were not trained to operate a marked patrol car.

Responding to an inquiry from Commissioner Riley, Mr. Cuzze stated that Category I officers receive approximately 600 hours of training while a Category II officer receives approximately 400 hours of training.

Mr. Gasparino added that Category II officers do not receive training in traffic laws, emergency vehicle operations, patrol procedures, stopping and citing drivers, building searches or accident investigations, which are all duties currently performed by Capitol Police.

Commission Enus asked if there was any violation of State law, administrative policy or procedure regarding training at the Category II level. Mr. Gasparino replied not to his knowledge; however, they had always trained at the Category I level and there was nothing to preclude Category II Officers from being trained at the Category I level.

Mr. Tiran stated all peace officers should be Category I, and the issue would be examined during the next legislative session. Referencing NRS 289.470, he pointed out the minimum level of training required for Capitol Police Officers was Category II training. He noted that the Department of Public Safety requested the change because of fiscal responsibility, which the Nevada Conference of Police and Sheriffs recognized. However, there was no fiscal responsibility in the soft money savings of time and commitment spent in training. He urged the Commission to recognize that Category I training was the best training available and necessary for Capitol Police, and added there would be a larger pool of candidates trained at the Category I level than there would ever be at the Category II level in Nevada.

Eve Tlachac, Personnel Analyst, Department of Public Safety, stated the department desired to change the specifications in order to match the NRS, which indicated those officers were Category II officers. If, in the future the requirement is changed in NRS, the department had no problem changing it back to Category I. She contended the recommended change was not a training issue, but a housekeeping change and stated the

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department was currently revising the training program and new practices were being developed.

There being no further discussion, Commissioner Gamboa's motion to deny changing the minimum requirement from Category I to Category II was seconded by Commissioner Riley. The motion carried with Commissioners Enus and Skaggs voting nay.

B. Conservation Camp series
Forestry Staff Specialist
Dan Holbrook, Forester IV, Forestry Division
Conservation & Natural Resources

Ms. Greene stated that even though the objection from Dan Holbrook had been withdrawn, the Commission was still required to act on our recommendation to create the classification for Conservation Camp Coordinator, grade 37.

Commissioner Enus' motion to approve both class specifications was seconded by Commissioner Skaggs and unanimously carried.

VI. *Proposed Regulation Changes to Nevada Administrative Code, Chapter 284

Shelley Blotter, Personnel Analyst, Department of Personnel, explained that Item VI-A included amendments that were required due to statutory changes passed by the 2001 Legislature as well as proposals by the department and other interested parties. The changes in Item VI-B resulted from a comprehensive review of the Compensation Section of NAC 284 due to a request from the Committee on Fundamental Review of State Government which determined that Nevada's regulations had become redundant and difficult to understand. She summarized the steps involved whenever a regulation required change so the Commission had a better understanding of the issues.

Ms. Blotter clarified the following sections of Item VI-B for the Commission:

- Section 2 - the definition of the base rate of pay. The language "before any adjustments" should be removed.
- Section 4, subsection 2 - language was drafted with the word "hours." The correct wording should include "days" for exempt employees.
- Section 27 - remove section from consideration because it is repealed in Section 79.
- Section 33, NAC 284.204 - would allow a pay differential to be paid to a supervisor in certain situations.

Ms. Blotter explained that if the Commission adopted Item VI-A, Section 7, then the Department would pull its recommendation from Section 62 of VI-B. If not, then Personnel sought to proceed with their proposal as indicated in Section 62.

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- A. Changes due to statutory revisions, requests by interested parties, and proposals by the Department of Personnel

Sec. 1 New Section Extended military leave for active military service

Gary Wolff, Business Agent, Teamsters Local 14, stated the Teamsters did not have a problem with the concept as introduced by the Governor, but there were problems with the amount of pay, how it was paid, and how those in the military were affected.

Novelt Mack, Highway Patrol Trooper, Nevada Highway Patrol Division, Department of Public Safety, and Sergeant in the United States Air Force Reserve, explained he was called to active military duty, receiving the difference in gross wages as a State employee and his gross military. Sgt. Mack asked the Commission to consider changing the regulation from *gross wages* to *base pay*.

Jeanne Greene, Director, Department of Personnel, clarified that the term *gross wages* was used in Governor Guinn's emergency regulation distributed in September; however, the regulation currently before the Commission did not use that term.

Ms. Blotter explained that *base pay* would only include the employee's grade and step. *Gross pay* was chosen because it afforded employees the greatest benefit, including shift differential, for example.

Mr. Wolff stated that perhaps *base pay* was not the correct term and explained active military members would be losing money due to the enhancements given to them by the military.

Carol Thomas, Technical Services Chief, Department of Personnel, explained that when the policy was put together on behalf of Governor Guinn, they met with the Office of the Military to look at both sides and compare those allowances received each month. The intent of the regulation was to keep the employee from suffering a financial loss while serving our country.

Ron Cuzze, State Peace Officers Council, explained the problem lay in the number of pays and allowances within the military system. Mr. Cuzze suggested amending the term to *military pay* which would solve the problem and be fair to those serving on active duty.

Commissioner Enus stated the issue was complicated and could become costly. When gross pay was examined, one had to recognize that as the various allowances were included. She believed the way the Governor set up the regulation was fair and equitable. If the Commission tried to revamp what's been accepted, the cost to the State could be tremendous.

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Ms. Blotter clarified that it had been determined through discussions with the Office of the Military that clothing would not be factored into the gross pay even though duty members were still receiving a clothing allowance.

Mr. Wolff contended the language was vague, and it was inherently wrong for those called to serve their country not to be paid what they deserve. Ms. Greene explained the State was not taking away from those individuals, and the regulation provided a benefit that State employees were not entitled to before. The Governor did not intend such individuals to be harmed, but wanted them to receive the differential pay.

There being no further discussion, Commissioner Skaggs' motion to approve changes as submitted by the Department of Personnel was seconded by Commissioner Enus. The motion carried with Chairman Manos voting nay.

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| <i>Sec. 2</i> | <i>NAC 284.132</i> | <i>Temporary classifications</i> |
| <i>Sec. 3</i> | <i>NAC 284.194</i> | <i>Combined with Agenda Item VI-B, Section 32</i> |
| <i>Sec. 4</i> | <i>NAC 284.206</i> | <i>Combined with Agenda Item VI-B, Section 34</i> |
| <i>Sec. 5</i> | <i>NAC 284.398</i> | <i>Transfer to classified service</i> |

There being no opposition to Sections 2 through 5, Commissioner Enus' motion to approve the changes was seconded by Commissioner Skaggs and unanimously carried.

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| <i>Sec. 6</i> | <i>NAC 284.442</i> | <i>Length of probationary period</i> |
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Scott MacKenzie, Executive Director, State of Nevada Employees Association (SNEA), stated he did not understand why the change was necessary. Jeanne Greene, Director, Department of Personnel, explained that the Department had an agreement with SNEA during the last legislative session to make the change. Mr. MacKenzie stated he was not aware of the agreement made by former Executive Director, Bob Gagnier.

Ms. Greene explained that rather than require all positions to serve a one year probationary period, it would be required for only those at grade 20 and above. The purpose for the change was to address agencies' concerns that a 6-month probationary period was not an adequate amount of time to provide training for an employee to gain the technical skills required to perform duties associated with the job and to be able to assess an employee's performance. This would be a benefit to employees as well as the agencies.

Deena Dowd, DMV Services Technician III, Department of Motor Vehicles, disagreed with the change because individuals employed with the DMV undergo an intensive 8-week training period and felt that 8 weeks was a good indicator of whether an employee would be able to amass the amount of knowledge needed to serve on the front counter. She contended that 6 months was an adequate period of time to ascertain if an employee was capable of performing the duties assigned.

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Debra Olson, Director of Human Resources, University of Nevada, Reno, and Carla Henson, Director of Human Resources, University of Nevada, Las Vegas, both stated the University and Community College System of Nevada (UCCSN) supported the extension of the probationary period from 6 months to 1 year. They agreed it benefits the employee and provides additional time for an individual to gain technical skills.

Both Kareen Masters, Personnel Officer, Department of Human Resources, and Ruth Jones, Personnel Officer, Department of Employment, Training and Rehabilitation, indicated their support for the change.

Commissioner Skaggs' motion to approve Section 6 as recommended by the Department of Personnel was seconded by Commissioner Enus and unanimously carried.

Sec. 7 NAC 284.526 Computation for payments for holidays

Linda Covelli, State of Nevada Employees Association, explained their proposal provided avenues to experiment with job sharing and non-standard work weeks and it benefitted everyone involved. She explained the revised language allowed those employees working 10-12 hour shifts to receive pay for those same number of hours on holidays instead of the current 8 hours of holiday pay. Ms. Covelli added that subsection 4, regarding averaging, should be eliminated because it was addressed in subsection 3.

Joseph Rauscher, Correction Officer, Department of Corrections, contended employees are forced to take annual leave or take leave without pay when they are mandated to take off on a holiday.

Deena Dowd, DMV Services Technician III, Department of Motor Vehicles, supported SNEA's proposal because both 8 and 10-hour shift employees work the same number of hours annually and she felt holiday pay should match the number of hours in a shift.

Ron Cuzze, State Peace Officers Council, indicated that some agencies put their employees, who normally work a 10-hour shift, on 8-hour shifts during the week of a holiday. He felt there should be a standardization for State employees and administrators should not be able to apply the regulations any way they saw fit.

Scott Sisco, Acting Director, Department of Cultural Affairs, maintained there were inequities with the language in Section 7 because an employee who worked 10-hour days was going to get paid 22 more hours a year than the employee working next to him. His department was an example of a small agency that cannot always grant an employee's request to work innovative work weeks. He stated the issue was not that an employee shouldn't be paid for a holiday, but how to make it fair for everybody, and the State should be concentrating on the variety of ways for an employee to make up the time.

Kathi Sinclair, Personnel Officer, Department of Corrections, stated the Department of Corrections did not support the regulation as stated in Section 7. She maintained the

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regulation would not help those employees who work 12-hour shifts, and it penalized those who could not be granted requests to work innovative work weeks. She discussed the fiscal impact of the regulation with the Commission and expressed support for the recommendation in Item VI-B, Section 62, as presented by the Department of Personnel.

Carol Thomas explained that currently all State employees not working on a holiday received eight hours of holiday pay. The Department of Personnel's concern with SNEA's proposal was that it would be inequitable when employees were afforded different benefits based on an elected work schedule, and Personnel desired that the flexible work schedules be a win-win situation for both employees and agencies.

Commissioner Enus stated holiday pay became an equal entitlement if an employee who elected a variable schedule was paid for the exact same number of hours and given the discretion as to how their 40-hour work week was supplemented.

Kareen Masters, Personnel Officer, Department of Human Resources, explained that over the course of a year, those employees working five, 8-hour days receive 88 hours of holiday pay for working 352 hours. An employee working four, 10-hour days, under the current regulation, receives 88 hours of holiday pay for only working 330 hours; therefore, they have to either work or use annual leave or compensatory time to make up for those 22 hours. With regard to Ms. Covelli's proposed amendment to delete subsection 4 from NAC 284.526, Ms. Master's indicated the Department of Human Resources was opposed to its removal because it affected those employees who worked a 24-hour shift, such as Professional Teaching Parents.

A discussion ensued regarding the inequities of pay for working 8-hour shifts compared to 10-hour shifts.

Chairman Manos closed the discussion and Commissioner Enus' motion to deny Section 7 and approve the Department of Personnel's proposal under Item VI-B, Section 62, was seconded by Commissioner Skaggs.

Chairman Manos called for discussion on the motion and asked for an explanation of Item VI-B, Section 62. Shelley Blotter explained that it simplified and cleaned up verbiage, as requested by the Fundamental Review Committee, but did not change current practice.

Commissioner Riley voiced concern that if the current holiday pay was retained, would there be alternatives within an agency to enable employees to make up the hours needed to complete their 40 hour week.

Colonel Hosmer indicated that his employees, who worked four 10-hour shifts, were allowed to make up those hours by shifting them to another day during holiday weeks in one hour increments.

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Mr. Rauscher indicated employees within Corrections were not afforded that alternative.

Ms. Sinclair explained the Department of Corrections had 2,500 employees and 90% of the department's employees were currently on alternative work schedules, but in a 24/7 agency, flexible scheduling was not always possible.

Motion carried with Chairman Manos voting nay.

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| <i>Sec. 8</i> | <i>NAC 284.575</i> | <i>Catastrophic leave: Interpretation of certain statutory terms</i> |
| <i>Sec. 9</i> | <i>NAC 284.576</i> | <i>Catastrophic leave: Use; notice; powers and duties of appointing authority</i> |
| <i>Sec. 10</i> | <i>NAC 284.587</i> | <i>Civil leave with pay for acting as a fireman or meeting other emergency</i> |
| <i>Sec. 11</i> | <i>NAC 284.612</i> | <i>Layoffs; Definitions</i> |
| <i>Sec. 12</i> | <i>NAC 284.614</i> | <i>Layoffs; Procedure</i> |
| <i>Sec. 13</i> | <i>NAC 284.618</i> | <i>Layoffs: Voluntary demotions</i> |

There being no opposition to Sections 8 through 13, Commissioner Skaggs' motion to approve the changes was seconded by Commissioner Enus and unanimously carried.

B. Changes resulting from a comprehensive review of the Compensation Section

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| <i>Sec. 1</i> | <i>New Section</i> | <i>Adds provisions set forth as sections 2 to 16, inclusive, of this regulation</i> |
| <i>Sec. 2</i> | <i>New Section</i> | <i>"Base rate of pay" defined</i> |
| <i>Sec. 3</i> | <i>New Section</i> | <i>"Full-time employee" defined</i> |
| <i>Sec. 4</i> | <i>New Section</i> | <i>"Full-time equivalency" or "full-time equivalent" defined</i> |
| <i>Sec. 5</i> | <i>New Section</i> | <i>"Holiday" defined</i> |
| <i>Sec. 6</i> | <i>New section</i> | <i>"Nonexempt employee" defined</i> |
| <i>Sec. 7</i> | <i>New Section</i> | <i>"Normal rate of pay" defined</i> |
| <i>Sec. 8</i> | <i>New Section</i> | <i>"Paid status" defined</i> |
| <i>Sec. 9</i> | <i>New Section</i> | <i>"Part-time employee" defined</i> |
| <i>Sec. 10</i> | <i>New Section</i> | <i>"Part-time employment" defined</i> |
| <i>Sec. 11</i> | <i>New Section</i> | <i>"Pay class" defined</i> |
| <i>Sec. 12</i> | <i>New Section</i> | <i>"Positive reporting employee" defined</i> |
| <i>Sec. 13</i> | <i>New Section</i> | <i>"Present level of pay" defined</i> |
| <i>Sec. 14</i> | <i>New Section</i> | <i>Pay progression date; service time considered</i> |
| <i>Sec. 15</i> | <i>New Section</i> | <i>Use of compensatory time off</i> |
| <i>Sec. 16</i> | <i>New Section</i> | <i>Compensable hours on a holiday; scheduling of hours</i> |
| <i>Sec. 17</i> | <i>NAC 284.010</i> | <i>Definitions</i> |
| <i>Sec. 18</i> | <i>NAC 284.0637</i> | <i>"Excluded classified employee" defined</i> |
| <i>Sec. 19</i> | <i>NAC 284.0638</i> | <i>"Excluded unclassified employee" defined</i> |
| <i>Sec. 20</i> | <i>NAC 284.064</i> | <i>"Full-time employment" defined</i> |
| <i>Sec. 21</i> | <i>NAC 284.066</i> | <i>"Grade" defined</i> |

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| Sec. 22 | NAC 284.102 | <i>"Step" defined</i> |
| Sec. 23 | NAC 284.126 | <i>Creation of new class, reclassification of position or reallocation of existing class</i> |
| Sec. 24 | NAC 284.138 | <i>Reclassification or reallocation of class or position to higher grade as result of occupational study: Status of incumbent</i> |
| Sec. 25 | NAC 284.140 | <i>Reclassification of class or position to lower grade: Status of incumbent</i> |
| Sec. 26 | NAC 284.158 | <i>Grade represents salary range; official base rates are semimonthly or biweekly</i> |
| Sec. 27 | NAC 284.162 | <i>Application of rates</i> |
| Section 27 removed from consideration because it is repealed in Section 79. | | |
| Sec. 28 | NAC 284.170 | <i>Initial rate of salary; effect of promotion, demotion, transfer, reappointment or reemployment; minimum step for continuous employee</i> |
| Sec. 29 | NAC 284.182 | <i>Pay progression date; adjustment and retention of date</i> |
| Sec. 30 | NAC 284.186 | <i>Date of promotion coinciding with pay progression date</i> |
| Sec. 31 | NAC 284.190 | <i>Automatic advancement</i> |
| Sec. 32 | NAC 284.194 | <i>Granting or withholding of increase in salary based on merit</i> |
| Sec. 34 | NAC 284.206 | <i>Special adjustments to salaries</i> |
| Sec. 35 | NAC 284.208 | <i>Compensation for dangerous duty or duty involving physical hardship</i> |
| Sec. 36 | NAC 284.210 | <i>Compensation for differentials in shifts</i> |
| Sec. 37 | NAC 284.214 | <i>Compensation for being called back to work; compensation for person required to appear as witness</i> |
| Sec. 38 | NAC 284.218 | <i>Compensation for standby status</i> |
| Sec. 39 | NAC 284.220 | <i>Change of time to or from daylight savings time</i> |
| Sec. 40 | NAC 284.242 | <i>Authorization of overtime</i> |
| Sec. 41 | NAC 284.248 | <i>Overtime: Employee who works in two positions; exceptions</i> |
| Sec. 42 | NAC 284.250 | <i>Compensation for overtime</i> |
| Sec. 43 | NAC 284.252 | <i>Compensatory time: Payment for excessive accumulation; use not to be unreasonably denied</i> |
| Sec. 44 | NAC 284.253 | <i>Compensatory time: Amount of payment</i> |
| Sec. 45 | NAC 284.2535 | <i>Compensatory time: Firemen</i> |
| Sec. 46 | NAC 284.254 | <i>Compensation for overtime upon transfer</i> |
| Sec. 47 | NAC 284.258 | <i>Compensation for time spent traveling</i> |
| Sec. 48 | NAC 284.262 | <i>Applicability of plan to encourage continuity of service</i> |
| Sec. 49 | NAC 284.270 | <i>Longevity pay: Employees' ratings</i> |
| Sec. 50 | NAC 284.274 | <i>Longevity pay: Dates for payment and eligibility</i> |
| Sec. 51 | NAC 284.278 | <i>Longevity pay: applicable formulas</i> |
| Sec. 52 | NAC 284.282 | <i>Longevity pay: Eligibility under particular circumstances</i> |
| Sec. 53 | NAC 284.284 | <i>Longevity pay: Return to state service</i> |
| Sec. 54 | NAC 284.290 | <i>Retained rates of pay</i> |

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| <i>Sec. 55</i> | <i>NAC 284.294</i> | <i>Reimbursement for furnishing own tools</i> |
| <i>Sec. 56</i> | <i>NAC 284.334</i> | <i>Notice of recruitment</i> |
| <i>Sec. 57</i> | <i>NAC 284.414</i> | <i>Temporary appointments</i> |
| <i>Sec. 58</i> | <i>NAC 284.448</i> | <i>Time not counted toward completion of probationary period</i> |
| <i>Sec. 59</i> | <i>NAC 284.470</i> | <i>Preparation and discussion of reports; request for review</i> |
| <i>Sec. 60</i> | <i>NAC 284.514</i> | <i>Educational leave stipends</i> |
| <i>Sec. 61</i> | <i>NAC 284.5255</i> | <i>Time sheets</i> |
| <i>Sec. 62</i> | <i>NAC 284.526</i> | <i>Computation of payments for holidays</i> |
| Section 62 was approved during discussion of Item VI-A, Section 7. | | |
| <i>Sec. 63</i> | <i>NAC 284.530</i> | <i>Compensation for working on holidays</i> |
| <i>Sec. 64</i> | <i>NAC 284.5385</i> | <i>Annual leave: Leave without pay; catastrophic leave; receipt of benefits for temporary total disability; computation; part-time employees</i> |
| <i>Sec. 65</i> | <i>NAC 284.5395</i> | <i>Annual leave: Payment upon separation from service</i> |
| <i>Sec. 66</i> | <i>NAC 284.544</i> | <i>Sick leave: Leave without pay; catastrophic leave; receipt of benefits for temporary total disability; computation</i> |
| <i>Sec. 67</i> | <i>NAC 284.580</i> | <i>Leave of absence without pay during fiscal emergency of state</i> |
| <i>Sec. 68</i> | <i>NAC 284.582</i> | <i>Civil leave with pay to serve on jury or as witness</i> |
| <i>Sec. 69</i> | <i>NAC 284.5895</i> | <i>Computation of leave for excluded classified and unclassified employees</i> |
| <i>Sec. 70</i> | <i>NAC 284.594</i> | <i>Unauthorized absences</i> |
| <i>Sec. 71</i> | <i>NAC 284.6008</i> | <i>Temporary assignment: Location; jurisdiction of appointing authority; effect of jurisdiction of another appointing authority</i> |
| <i>Sec. 72</i> | <i>NAC 284.614</i> | <i>Layoffs: Procedure</i> |
| <i>Sec. 73</i> | <i>NAC 284.642</i> | <i>Suspensions</i> |
| <i>Sec. 74</i> | <i>NAC 284.702</i> | <i>Reports of personnel actions</i> |
| <i>Sec. 75</i> | <i>NAC 284.706</i> | <i>Notification of improper employment or payment</i> |
| <i>Sec. 76</i> | <i>NAC 284.710</i> | <i>Order of processing personnel documents</i> |
| <i>Sec. 77</i> | <i>NAC 284.714</i> | <i>Official roster open to inspection</i> |
| <i>Sec. 78</i> | <i>NAC 284.770</i> | <i>Political activities</i> |
| <i>Sec. 79</i> | <i>Repealed</i> | <i>NAC 284.162, 284.166, 284.202, and 284.534</i> |

There being no opposition to Sections 1 through 79, except Section 27 which was removed from consideration, Section 62 approved during discussion of Item VI-A, Section 7, and Section 33, Chairman Manos called for a motion. Commissioner Skaggs' motion to approve Sections 1-26, 28-32, 34-61, and 63-79 was seconded by Commissioner Gamboa and unanimously carried.

Sec. 33 NAC 284.204 Adjustment of steps within same pay grade

Shelley Blotter explained the intent of the amendment in Section 33 was to allow an appointing authority the ability to adjust the steps of a supervisor when his pay is equal to

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or less than a subordinate. Subsection 1C was added to NAC 284.204 to allow this change.

Bob Wideman, Chief of Investigations, Department of Public Safety, explained that existing provisions in NAC 284.170 had a negative impact on recruiting or promoting employees. He explained that a Sergeant might be on swing shift receiving shift differential and might be on motorcycle duty receiving a hazardous pay adjustment, and if that Sergeant was promoted to Lieutenant and limited to the 10 percent promotional adjustment, the supervisor and subordinate may remain equal in pay and/or lose money because of the removal of the pay adjustments. Upon discussing the issue with the Department of Personnel, it was decided this problem would best be addressed as a step adjustment in NAC 284.204.

Mr. Wideman explained Public Safety sought to adjust that inequity at the discretion of the appointing authority. However, the requirement that it be linked to the base rate of the direct subordinate was problematic in that this rate changes in relation to a particular assignment. He urged the Commission to remove the verbiage "such an adjustment may be granted when the direct subordinate of the supervisor is paid at the same or a greater base rate of pay than the supervisor."

Carol Thomas stated the compromise proposed by Department of Personnel would accommodate the base rate of pay plus any special adjustment the individual was receiving under NAC 284.206. If such language were to be used, it would not include overtime or other intermittent types of pay that occur for employees.

Commissioner Enus asked for clarification on the impact if the second sentence in 1C were removed. Commissioner Enus suggested that if subsection 1B, 5 and 1C were to be removed, the appointing authority could make their own determinations relative to their budgets and classifications of employees as opposed to having individual inequities within the same classification.

Colonel Hosmer recommended the appointing authority be able to request the differential through the department with the oversight and fiscal approval.

Ms. Greene clarified that promotions for all employees currently were limited to 10 percent. Through the regulation change, if a supervisor was negatively impacted by the salary of his subordinates, the appointing authority could request an adjustment so that the supervisor's salary would be higher than the subordinates salary. By removing the last sentence, anytime someone was promoted into a supervisory position, the agency could come forth and ask for an adjustment greater than 10 percent. The Department felt the differential should be limited to only those situations where compaction exists.

Ms. Greene further stated that under the language proposed by the Department of Personnel, agencies would be limited in requests for differentials. The language

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proposed by the Department of Public Safety would allow agencies to come forth at any time for a salary differential for supervisors.

Because of changes prior to the meeting and the difficulty in understanding the ramifications of the subsection, Scott Sisco, Acting Director, Department of Cultural Affairs suggested tabling subsections 1B, 5 and 1C to provide an opportunity for further comments.

Kathi Sinclair, Personnel Officer, Department of Corrections, stated she did not understand how they would be able to administer the regulation and suggested tabling all of Section 33.

Mr. Wideman stated the intent his proposal was to be permissive and allow a level of judgment, evaluation and analysis on the part of the appointing authorities as well as the Department of Personnel. In the interest of fairness in paying employees for the job actually performed, he wanted the language to be passed in its most permissive form.

Chairman Manos inquired that if the subsections were tabled, what impact would it have on the Department. Ms. Greene replied Personnel would not be able to address the subordinate/supervisor compaction if the entire section were to be tabled. Currently there was no provision to adjust the supervisor's salary if a subordinate was making more money.

Commissioner Enus voiced concern with the passage of the Section 33 with the exception of subsection 1C, because of the implications of subsection 1B, 5, and was concerned about the agencies that may not have had time to consider the impact of the provision. She was not yet convinced that a negative impact would result if the issue were to be tabled and approved retroactively to December 7, 2001. Jim Spencer, Sr. Deputy Attorney General, stated the provision could be made retroactive if the effective date were specified clearly when the regulation was adopted.

Commissioner Enus' motion to approve Section 33, with the exception of subsections 1B, 5, and 1C to be tabled and brought back at the next meeting, was seconded by Commissioner Skaggs and unanimously carried.

VII. *Classification Appeals

A. Mike Draper and Lloyd Jones, Supply Assistant
Department of Administration, Printing Division

Mike Draper and Lloyd Jones requested reclassification from Supply Assistant, grade 23, to Driver/Warehouse Worker I, grade 26. Their positions were recently transferred from non-classified to the classified service.

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Danny Thompson, Executive Secretary and Treasurer, Nevada State AFL-CIO, stated that the appellants' duties and responsibilities over the last four years should be reviewed and their service to the State considered upon transfer from non-classified to classified service. Had the two men been classified, they would have already been at the desired grade level. The determination to deny their appeal was based on the fact they did not supervise inmates; however, Mr. Thompson contended they had supervised inmates in the past. On the appellants' NPD-19, they had indicated they drove only 5% of the time, but because the duty varied widely, they were now driving 40% of their time. He urged the Commission to read Senate Bill 75, consider the uniqueness of the case and classify Mr. Jones and Mr. Draper correctly.

Peter Long, Personnel Analyst, Department of Personnel, stated the Department of Personnel had determined the appellants' positions should be placed in the classified service and the appropriate class and grade was Supply Assistant, grade 23. As a result of the determination, the appellants received an approximate 15% increase in pay, which was the equivalent of three grades. In their letter of appeal, the appellants had requested their positions be allocated to an even higher, unspecified grade. He stated the appellants raised five issues they believed would justify the higher classification level: length of service, past supervision of inmates, driving duties, driver's license requirement, and inventory and lifting.

Mr. Long pointed out that length of service and job performance were not valid factors in making a classification determination and did not provide justification for placing a position at a higher level. An employee was compensated in those areas by other means: longevity pay and merit salary increases. SB 75 did not change that, but simply provided benefits accrued in the non-classified service to be transferred to the classified service in the areas of longevity pay, leave accrual rates, merit salary increases, etc., which the appellants received. Whether inmate supervision is performed currently or four years ago, there are positions classified as Supply Assistant, grade 23, which currently perform that function. A recently completed occupational group study provided current comparisons of over 20 positions performing duties similar to those of the appellants, which were allocated as Supply Assistants. The appellants' driving duties were not consistent with those associated with the Driver/Warehouse Worker series, accounted for only a small percentage at the time of the study, and did not require a Class A driver's license. Inventory and lifting were considered during the study and determined to be duties consistent with the Supply Assistant class concept. He pointed out that the appellants spent the majority of their time performing duties specifically detailed in the Supply Assistant class concept. Upward reclassification would create serious inequities in State service as Supply Assistants perform similar duties. He urged the Commission to deny the appeals.

Mr. Thompson reiterated the Commission should take the time to read SB 75 and take into account the bill's unanimous passage in both the Senate and Assembly which states the Commission will consider the work performed by the appellants for the last four years and take into account the years of service they had previously worked for the State.

He believed that if the Commission examined the duties performed by the appellants, they would find they were improperly classified as Supply Assistant.

Mr. Thompson added that the appellants received only a 5% increase if the 4% cost of living increase given to all State employees was discounted. He directed the Commissioners to the class specification for Driver/Warehouse Worker I and stated the appellants currently perform those job duties and meet the criteria as indicated except for the Class A driver's license requirement.

Commissioner Enus stated Section 7 of SB75 allowed for the department to make the determination within the existing structure and framework as to where the particular position was to be placed in the classified system. She understood that giving the employees appropriate credit meant the PERS system, seniority rights, etc. that accrue within the structure of the State personnel system. Referring to the NPD-19's as submitted by the appellants, Commissioner Enus stated the driving duty only accounted for 5% of the time.

There being no further discussion, Commissioner Skaggs' motion to deny the appeals was seconded by Commissioner Enus and unanimously carried.

B. John McCuin, Administrative Services Officer II
Department of Corrections

John McCuin requested that his position be reallocated to an Administrative Services Officer III, grade 41, because his duties and responsibilities were consistent with the concepts for the class. Mr. McCuin explained he had complete autonomy and decision making responsibilities within Prison Industries for all matters relating to operations, fiscal and other management issues and the consequence of error was high.

Mr. McCuin explained the classification study conducted by the Department of Personnel attempted to compare his duties to those of other Administrative Services Officer II's and III's. He did not agree the method was an accurate reflection of the scope and vision for the class as described by the class specification. Mr. McCuin expressed frustration with the inaccurate facts collected by the Department of Personnel during the study and addressed several issues.

Chairman Manos inquired how Mr. McCuin's specific position changed since having been reallocated to an Administrative Services Officer II, grade 39, in 1999. Mr. McCuin replied when he submitted the NPD-19, his duties and the complexity of the work were a little more than an Administrative Services Officer II, but not quite consistent with duties allocated to the Administrative Services Officer III positions. Since then, Mr. McCuin's duties increased giving him full authority for decision making and confronting problems; preparation and finalization of contracts for signature; and direct supervision of two employees.

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Adrian Foster, Personnel Analyst, Department of Personnel, discussed the procedures and rationale used in making the determination for denial of Mr. McCuin's appeal. Personnel made the determination based on the amount of significant change observed since 1998 as well as the comparative analysis conducted. The results of the analysis indicated that the test of significant change was not met and that the current duties were consistent with the Administrative Services Officer II class concepts. When the position was last studied in 1998, it had been reclassified from an Accountant III, grade 38.

Referring to Mr. McCuin's NPD-19, Mr. Foster pointed out that three new duties had been added in 2001 which were determined to be within the scope of the Administrative Services Officer II class and that those duties accounted for 11-12% of his time. The concepts for Administrative Services Officer III have a broader scope of responsibilities with higher level consequence of error and decision making.

Kathi Sinclair, Personnel Officer, Department of Corrections, agreed that Mr. Foster accurately reflected the duties performed by the Administrative Services Officer II position for Prison Industries. She stated that the Director of the Department of Corrections did not support the reclassification of Mr. McCuin's position, and she agreed with the determination by the Department of Personnel because significant change had not been shown.

There being no further discussion, Commissioner Enus' motion to deny the appeal was seconded by Commissioner Skaggs and carried with Commissioner Gamboa voting nay.

VIII. *Request for Exception to NAC 284.377 per NAC 284.375(2)

Chairman Manos explained the issue dealt with nepotism and the Department of Transportation had requested approval of an exception to the policy involving a supervisor who becomes related or becomes involved in a relationship with an employee in the direct line of authority after appointment.

Scott MacKenzie, Executive Director, State of Nevada Employees' Association, supported the exception.

Marilyn Yezek, Human Resources Manager, Department of Transportation, stated that this was a single incident exception for two employees involved in a dating relationship in their most remote maintenance station, just south of the Oregon border. They have been long-term employees and because the next closest maintenance station was over 80 miles away it would be impractical for either employee to transfer, and it was a difficult-to-recruit area.

Commissioner Skaggs' motion to approve the exception was seconded by Commissioner Gamboa and unanimously carried.

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IX. Uncontested Classification Action Report

No action required.

X. Selective Certification

No action required.

XI. Special Reports

None.

XII. Comments by the General Public

None.

XIII. Select Date for Next Meeting

Next meeting set for March 22, in Carson City.

XIV. *Adjournment

Commissioner Skaggs' motion to adjourn the meeting was seconded by Commissioner Enus and unanimously carried at 2:36 p.m